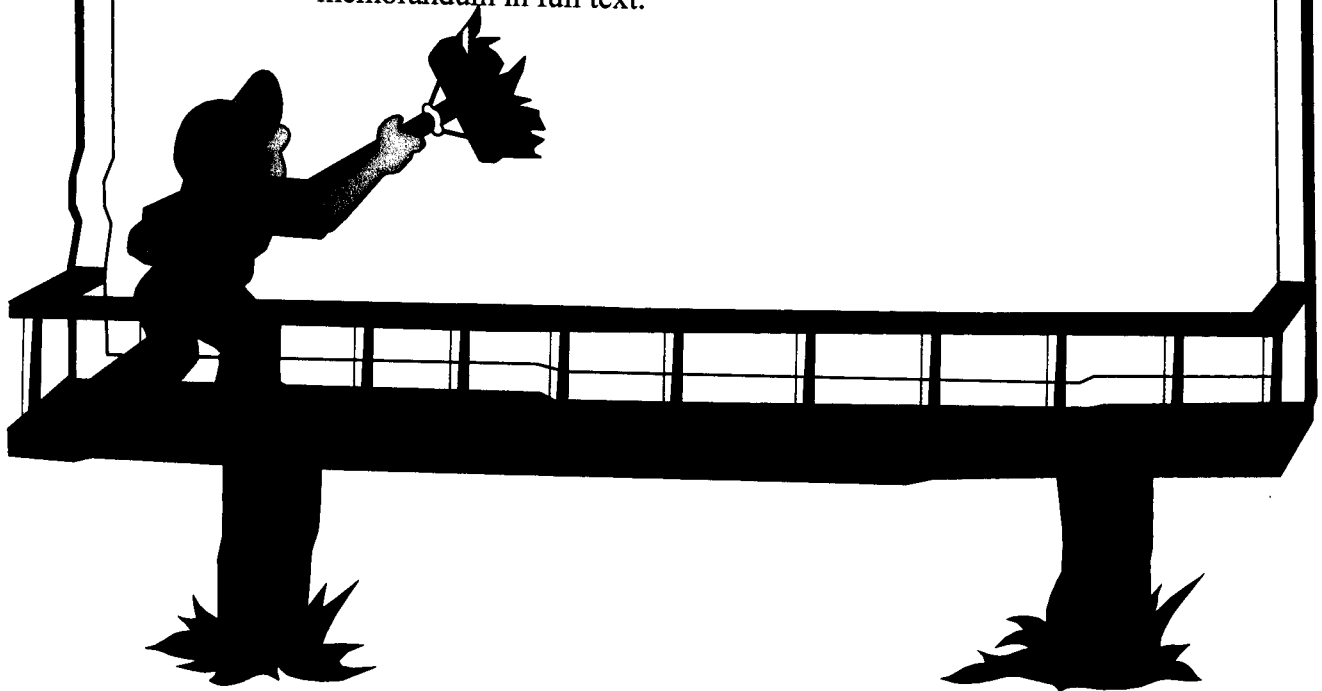




## **Headquarters Policy Flash**

FLASH 2003-17

DATE: July 30, 2003  
TO: Procurement Directors  
FROM: Office of Procurement and Assistance Policy, ME-61  
Office of Procurement and Assistance Management  
SUBJECT: **Office of Federal Procurement Policy Memorandum - Applicability  
of FAR Part 12 to Construction Acquisitions**  
SUMMARY: This Flash transmits a memorandum from the Office of Federal  
Procurement Policy (OFPP) clarifying the applicability of FAR  
Commercial Items procedures relative to construction acquisitions.  
Contracting personnel should review the details of the attached  
memorandum in full text.



**FLASH 2003-17**  
**July 30, 2003**

In her July 3, 2002, memorandum, the Administrator of OFPP, Angela Styles, reminds agencies of their responsibilities in the acquisition of Construction Services under FAR Part 12 or Part 36 procedures, explaining that OFPP believes there are rare instances when Part 12 procedures should be used for new construction or non-routine alteration and repair services. Given the amount of risk associated with these types of construction acquisitions, it would be in the Government's best interest to utilize the existing FAR Part 36 procedures.


OFPP has cited effects making it impractical to use Part 12 procedures when acquiring construction services; when-

- Application of FAR Part 12 procedures to complex construction contracts results in an inequitable distribution of risk;
- FAR Part 12 lacks critical clauses sufficient to handle common circumstances associated with new construction or non-routine alteration and repair, such as, differing site conditions, change orders, and suspension of work; and
- New construction projects and non-routine alteration and repair involve a high degree of variability among the factors affecting contract performance.

FAR Part 12 procedures and clauses are best suited for certain types of construction acquisitions, such as, routine painting, carpeting, hanging drywall, or everyday electrical or plumbing work, and any simple noncomplex service. Accordingly, Ms. Style's memorandum asks that contracting officers consider the particular circumstance of each acquisition and apply the appropriate method of acquiring construction services based on the risk assessment determined.

**Note:** Most of DOE's construction occurs under the Management and Operating contracts. Such purchases should already be standardized in the contractor's purchasing system, which regulates the flowdown of appropriate terms and conditions.

Please address your comments and any questions relating to this Flash, to Denise P. Wright on (202) 586-6217 or via e-mail at [Denise.Wright@hq.doe.gov](mailto:Denise.Wright@hq.doe.gov)

  
Robert M. Webb, Acting Director  
Office of Procurement and  
Assistance Policy

Attachment  
cc: PPAG Members